

**620.055 External child fatality and near fatality review panel -- Creation -- Members -- Meetings -- Duties -- Responsibilities -- Information required to be provided to members -- Confidentiality -- Destruction of information following conclusion of panel's examination -- Application of open records and open meetings law -- Limitation of liability -- Annual evaluation of panel's work.**

- (1) An external child fatality and near fatality review panel is hereby created and established for the purpose of conducting comprehensive reviews of child fatalities and near fatalities, reported to the Cabinet for Health and Family Services, suspected to be a result of abuse or neglect. The panel shall be attached to the Justice and Public Safety Cabinet for staff and administrative purposes.
- (2) The external child fatality and near fatality review panel shall be composed of the following five (5) ex officio nonvoting members and fifteen (15) voting members:
  - (a) The chairperson of the House Health and Welfare Committee of the Kentucky General Assembly, who shall be an ex officio nonvoting member;
  - (b) The chairperson of the Senate Health and Welfare Committee of the Kentucky General Assembly, who shall be an ex officio nonvoting member;
  - (c) The commissioner of the Department for Community Based Services, who shall be an ex officio nonvoting member;
  - (d) The commissioner of the Department for Public Health, who shall be an ex officio nonvoting member;
  - (e) A family court judge selected by the Chief Justice of the Kentucky Supreme Court, who shall be an ex officio nonvoting member;
  - (f) A pediatrician from the University of Kentucky's Department of Pediatrics who is licensed and experienced in forensic medicine relating to child abuse and neglect to be selected by the Attorney General from a list of three (3) names provided by the dean of the University of Kentucky School of Medicine;
  - (g) A pediatrician from the University of Louisville's Department of Pediatrics who is licensed and experienced in forensic medicine relating to child abuse and neglect to be selected by the Attorney General from a list of three (3) names provided by the dean of the University of Louisville School of Medicine;
  - (h) The state medical examiner or designee;
  - (i) A court-appointed special advocate (CASA) program director to be selected by the Attorney General from a list of three (3) names provided by the Kentucky CASA Association;
  - (j) A peace officer with experience investigating child abuse and neglect fatalities and near fatalities to be selected by the Attorney General from a list of three (3) names provided by the commissioner of the Kentucky State Police;
  - (k) A representative from Prevent Child Abuse Kentucky, Inc. to be selected by the Attorney General from a list of three (3) names provided by the president of the Prevent Child Abuse Kentucky, Inc. board of directors;

- (l) A practicing local prosecutor to be selected by the Attorney General;
  - (m) The executive director of the Kentucky Domestic Violence Association or the executive director's designee;
  - (n) The chairperson of the State Child Fatality Review Team established in accordance with KRS 211.684 or the chairperson's designee;
  - (o) A practicing social work clinician to be selected by the Attorney General from a list of three (3) names provided by the Board of Social Work;
  - (p) A practicing addiction counselor to be selected by the Attorney General from a list of three (3) names provided by the Kentucky Association of Addiction Professionals;
  - (q) A representative from the family resource and youth service centers to be selected by the Attorney General from a list of three (3) names submitted by the Cabinet for Health and Family Services;
  - (r) A representative of a community mental health center to be selected by the Attorney General from a list of three (3) names provided by the Kentucky Association of Regional Mental Health and Mental Retardation Programs, Inc.;
  - (s) A member of a citizen foster care review board selected by the Chief Justice of the Kentucky Supreme Court; and
  - (t) An at-large representative who shall serve as chairperson to be selected by the Secretary of State.
- (3) (a) By August 1, 2013, the appointing authority or the appointing authorities, as the case may be, shall have appointed panel members. Initial terms of members, other than those serving ex officio, shall be staggered to provide continuity. Initial appointments shall be: five (5) members for terms of one (1) year, five (5) members for terms of two (2) years, and five (5) members for terms of three (3) years, these terms to expire, in each instance, on June 30 and thereafter until a successor is appointed and accepts appointment.
- (b) Upon the expiration of these initial staggered terms, successors shall be appointed by the respective appointing authorities, for terms of two (2) years, and until successors are appointed and accept their appointments. Members shall be eligible for reappointment. Vacancies in the membership of the panel shall be filled in the same manner as the original appointments.
- (c) At any time, a panel member shall recuse himself or herself from the review of a case if the panel member believes he or she has a personal or private conflict of interest.
- (d) If a voting panel member is absent from two (2) or more consecutive, regularly scheduled meetings, the member shall be considered to have resigned and shall be replaced with a new member in the same manner as the original appointment.
- (e) If a voting panel member is proven to have violated subsection (13) of this section, the member shall be removed from the panel, and the member shall be replaced with a new member in the same manner as the original

appointment.

- (4) The panel shall meet at least quarterly and may meet upon the call of the chairperson of the panel.
- (5) Members of the panel shall receive no compensation for their duties related to the panel, but may be reimbursed for expenses incurred in accordance with state guidelines and administrative regulations.
- (6) Each panel member shall be provided copies of all information set out in this subsection, including but not limited to records and information, upon request, to be gathered, unredacted, and submitted to the panel within thirty (30) days by the Cabinet for Health and Family Services from the Department for Community Based Services or any agency, organization, or entity involved with a child subject to a fatality or near fatality:
  - (a) Cabinet for Health and Family Services records and documentation regarding the deceased or injured child and his or her caregivers, residents of the home, and persons supervising the child at the time of the incident that include all records and documentation set out in this paragraph:
    1. All prior and ongoing investigations, services, or contacts;
    2. Any and all records of services to the family provided by agencies or individuals contracted by the Cabinet for Health and Family Services; and
    3. All documentation of actions taken as a result of child fatality internal reviews conducted pursuant to KRS 620.050(12)(b);
  - (b) Licensing reports from the Cabinet for Health and Family Services, Office of Inspector General, if an incident occurred in a licensed facility;
  - (c) All available records regarding protective services provided out of state;
  - (d) All records of services provided by the Department for Juvenile Justice regarding the deceased or injured child and his or her caregivers, residents of the home, and persons involved with the child at the time of the incident;
  - (e) Autopsy reports;
  - (f) Emergency medical service, fire department, law enforcement, coroner, and other first responder reports, including but not limited to photos and interviews with family members and witnesses;
  - (g) Medical records regarding the deceased or injured child, including but not limited to all records and documentation set out in this paragraph:
    1. Primary care records, including progress notes; developmental milestones; growth charts that include head circumference; all laboratory and X-ray requests and results; and birth record that includes record of delivery type, complications, and initial physical exam of baby;
    2. In-home provider care notes about observations of the family, bonding, others in home, and concerns;
    3. Hospitalization and emergency department records;
    4. Dental records;

5. Specialist records; and
  6. All photographs of injuries of the child that are available;
- (h) Educational records of the deceased or injured child, or other children residing in the home where the incident occurred, including but not limited to the records and documents set out in this paragraph:
1. Attendance records;
  2. Special education services;
  3. School-based health records; and
  4. Documentation of any interaction and services provided to the children and family.

The release of educational records shall be in compliance with the Family Educational Rights and Privacy Act, 20 U.S.C. sec. 1232g and its implementing regulations;

- (i) Head Start records or records from any other child care or early child care provider;
  - (j) Records of any Family, Circuit, or District Court involvement with the deceased or injured child and his or her caregivers, residents of the home and persons involved with the child at the time of the incident that include but are not limited to the juvenile and family court records and orders set out in this paragraph, pursuant to KRS Chapters 199, 403, 405, 406, and 600 to 645:
    1. Petitions;
    2. Court reports by the Department for Community Based Services, guardian ad litem, court-appointed special advocate, and the Citizen Foster Care Review Board;
    3. All orders of the court, including temporary, dispositional, or adjudicatory; and
    4. Documentation of annual or any other review by the court;
  - (k) Home visit records from the Department for Public Health or other services;
  - (l) All information on prior allegations of abuse or neglect and deaths of children of adults residing in the household;
  - (m) All law enforcement records and documentation regarding the deceased or injured child and his or her caregivers, residents of the home, and persons involved with the child at the time of the incident; and
  - (n) Mental health records regarding the deceased or injured child and his or her caregivers, residents of the home, and persons involved with the child at the time of the incident.
- (7) The panel may seek the advice of experts, such as persons specializing in the fields of psychiatric and forensic medicine, nursing, psychology, social work, education, law enforcement, family law, or other related fields, if the facts of a case warrant additional expertise.
- (8) The panel shall post updates after each meeting to the Web site of the Justice and

Public Safety Cabinet regarding case reviews, findings, and recommendations.

- (9) The panel chairperson, or other requested persons, shall report a summary of the panel's discussions and proposed or actual recommendations to the Interim Joint Committee on Health and Welfare of the Kentucky General Assembly monthly or at the request of a committee co-chair. The goal of the committee shall be to ensure impartiality regarding the operations of the panel during its review process.
- (10) The panel shall publish an annual report by December 1 of each year consisting of case reviews, findings, and recommendations for system and process improvements to help prevent child fatalities and near fatalities that are due to abuse and neglect. The report shall be submitted to the Governor, the secretary of the Cabinet for Health and Family Services, the Chief Justice of the Supreme Court, the Attorney General, and the director of the Legislative Research Commission for distribution to the Health and Welfare Committee and the Judiciary Committee.
- (11) Information and record copies that are confidential under state or federal law and are provided to the external child fatality and near fatality review panel by the Cabinet for Health and Family Services, the Department for Community Based Services, or any agency, organization, or entity for review shall not become the information and records of the panel and shall not lose their confidentiality by virtue of the panel's access to the information and records. The original information and records used to generate information and record copies provided to the panel in accordance with subsection (6) of this section shall be maintained by the appropriate agency in accordance with state and federal law and shall be subject to the Kentucky Open Records Act, KRS 61.870 to 61.884. All open records requests shall be made to the appropriate agency, not to the external child fatality and near fatality review panel or any of the panel members. Information and record copies provided to the panel for review shall be exempt from the Kentucky Open Records Act, KRS 61.870 to 61.884. At the conclusion of the panel's examination, all copies of information and records provided to the panel involving an individual case shall be destroyed by the Justice and Public Safety Cabinet.
- (12) Notwithstanding any provision of law to the contrary, the portions of the external child fatality and near fatality review panel meetings during which an individual child fatality or near fatality case is reviewed or discussed by panel members may be a closed session and subject to the provisions of KRS 61.815(1) and shall only occur following the conclusion of an open session. At the conclusion of the closed session, the panel shall immediately convene an open session and give a summary of what occurred during the closed session.
- (13) Each member of the external child fatality and near fatality review panel, any person attending a closed panel session, and any person presenting information or records on an individual child fatality or near fatality shall not release information or records not available under the Kentucky Open Records Act, KRS 61.870 to 61.884 to the public.
- (14) A member of the external child fatality and near fatality review panel shall not be prohibited from making a good faith report to any state or federal agency of any information or issue that the panel member believes should be reported or disclosed

in an effort to facilitate effectiveness and transparency in Kentucky's child protective services.

- (15) A member of the external child fatality and near fatality review panel shall not be held liable for any civil damages or criminal penalties pursuant to KRS 620.990 as a result of any action taken or omitted in the performance of the member's duties pursuant to this section and KRS 620.050, except for violations of subsection (11), (12), or (13) of this section.
- (16) Beginning in 2014 the Legislative Program Review and Investigations Committee of the Kentucky General Assembly shall conduct an annual evaluation of the external child fatality and near fatality review panel established pursuant to this section to monitor the operations, procedures, and recommendations of the panel and shall report its findings to the General Assembly.

**Effective:** June 25, 2013

**History:** Created 2013 Ky. Acts ch. 39, sec. 1, effective June 25, 2013.